



## SENATOR KEVIN DE LEÓN

### PRESIDENT PRO TEMPORE

#### **SB 674 (De León/Atkins)** **Immigrant Victims of Crime Equity Act**

**PURPOSE:** Encourages immigrant victims of crime in California to report crimes and collaborate with local law enforcement to attain justice for all Californians.

#### **BACKGROUND:**

**Congress established the U-Visa program for immigrant victims of crime to encourage them to report crimes and cooperate with authorities without fear of deportation**

Congress established the U-Visa through the Victims of Trafficking and Violence Prevention Act of 2000, Pub. L 106-386, Section 1513(a) (Oct. 28, 2000) to encourage noncitizen crime victims to report crimes without fear of immigration consequences, to strengthen the ability of law enforcement agencies to detect, investigate and prosecute cases of domestic violence, sexual assault, trafficking of aliens, and other crimes, and offer protection to victims of these crimes.<sup>1</sup> The U-Visa program promotes assistance to law enforcement by providing victims an opportunity to obtain temporary legal status if they were a victim of a qualifying crime and have been helpful or are likely to be helpful in the investigation or prosecution of that criminal activity.

**The United States Citizenship and Immigration Services determines whether the crime victim receives a U-Visa**

Federal immigration authorities determine whether an immigrant victim of crime will receive immigration relief through a U-Visa. To obtain a U-Visa, the victim must submit a completed Petition for U Nonimmigrant Status (Form I-918) to the federal government. The USCIS will approve a U-Visa application if it finds that the immigrant (1) was a victim of a qualifying criminal activity; and (2) has been helpful, is being helpful, or is

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<sup>1</sup> Qualifying criminal activity means qualifying criminal activity pursuant to Section 101(a) of the Immigration and Nationality Act and includes: rape, torture, human trafficking, incest, domestic violence, sexual assault, female genital mutilation, involuntary servitude, slavery, kidnapping, abduction, manslaughter, murder, and other crimes.

likely to be helpful to the detection, investigation, or prosecution of that qualifying criminal activity; and (3) has suffered harm due to the criminal activity.<sup>2</sup>

**The U-Visa will be denied unless the immigrant includes a Certification of Victim Helpfulness completed by law enforcement, a state or local agency, or a judge**

State and local entities have the power to help the immigrant victim qualify for the U-Visa. Likewise, state and local entities have the power to destroy the immigrant victim's chance of receiving a U-Visa. This is because the immigrant victim must include a completed certification of victim helpfulness (Form I-918 Supplement B) as part of their application with USCIS in order to qualify for the U-Visa. The certification of victim helpfulness must be completed and signed by law enforcement, a judge, or an agency.

**Some authorities who can complete the certification of victim helpfulness refuse to even though the immigrant was a victim of a qualifying crime and the victim was helpful or was likely to be helpful in the investigation or prosecution of that crime**

Some authorities that can complete certifications of victim helpfulness summarily refuse to do so.<sup>3</sup> This prevents a victim of crime from applying to the federal government for immigration relief through the U-Visa. Other authorities set nearly insurmountable restrictions so that very few immigrant victims can qualify for the certification of victim helpfulness. Some certify only for closed cases. Some certify only for open cases. Some only certify if there was a prosecution. Some only certify if there was an arrest. Others only certify if they deem the injuries suffered by the victim were substantial enough for certification. Domestic violence victims are denied in certain jurisdictions. Victims of rape are denied. Victims of child molestation are also denied.

The granting of a certification has more to do with the jurisdiction where the immigrant was victimized than whether the immigrant was a victim of a qualifying crime and helpful.<sup>4</sup> As an example, a county in the central valley approved only four out of 160 certification requests in the last three years, while another jurisdiction in California signed thousands of certifications during the same period.<sup>5</sup> One Northern California City issued ten times as many certifications as another comparably sized city over the same time period.<sup>6</sup> These examples highlight the inequitable treatment of immigrant crime victims. A victim should receive the underlying certification necessary to apply for the U-Visa regardless of geography as long as the victim was a victim of a qualifying crime and the victim was helpful or was likely to be helpful.

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<sup>2</sup> The U-Visas are valid for four years and can be extended. A U-Visa holder can apply for legal permanent resident status after three years. If the maximum amounts of U-Visas are approved, the victim goes on a wait list, will not be deported, and can receive work authorization.

<sup>3</sup> Entities that can certify victim helpfulness include state or local law enforcement agencies, prosecutors, judges, and any other authorities that have responsibility for the detection or investigation or prosecution of qualifying crimes.

<sup>4</sup> See Dan Levine & Kristina Cooke, Special Report, *U.S. Visa Program for Crime Victims is Hit-or-Miss Prospect*, REUTERS, Oct. 21, 2014; See statement by University of North Carolina School of Law professor Deborah Weissman that the U-Visa program "is kind of like geography roulette."

<sup>5</sup> Kate Lithicum, *Safety for Immigrant Victims Put on Hold by U-visa Delay*, L.A. TIMES, Feb. 1, 2015; Editorial, *Sorting Out U.S. Visas for Crime Victims*, L.A. TIMES, Jan. 25, 2015; Dan Levine & Kristina Cooke, Special Report, *U.S. Visa Program for Crime Victims is Hit-or-Miss Prospect*, REUTERS, Oct. 21, 2014.

<sup>6</sup> See Editorial, *Sorting Out U.S. Visas for Crime Victims*, L.A. TIMES, Jan. 25, 2015.

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**PROPOSAL:**

This bill brings fairness to immigrants victimized by crime. It does so by requiring law enforcement, judges, and government agencies to fill out the forms immigrant crime victims need to apply to the federal government for the Victims of Crime Visa ("U-Visa"). Under the bill, an immigrant cannot be denied the form they need if they were a victim of a crime that would qualify them for the U-Visa and were helpful or likely to be helpful to the investigation. The form must also be prepared within a time limit.

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**SUPPORT:**

American Federation of State, County and Municipal Employees (AFSCME)  
American Civil Liberties Union of California  
Immigrant Legal Resource Center  
Los Angeles Center for Law and Justice  
Central American Resource Center  
YWCA Glendale  
California Partnership to End Domestic Violence.  
California Attorneys for Criminal Justice

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